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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,872	09/09/2003	Mark L. Cutshall	EEMC 0107 PUS1	2091

22045 7590 11/26/2004

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EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,872

Applicant(s)

CUTSHALL, MARK L.

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election of species A in the reply filed on 14 May 2004 is acknowledged. However, the election has now been traversed. In that regard, applicant argues claims 8-15 read on the elected species. In response, the examiner disagrees because the last paragraph of claims 8 requires the blocking member which is not disclosed in embodiment of species A, Figs. 1-10, but instead is disclosed as element 100 as seen in Figs. 12 which is species B. Accordingly, claims 8-20 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Karp (US 2,986,188). In the embodiment of Figs. 1-3, Karp discloses a cage nut assembly comprising a nut (11) and a cage (10). The nut has an oblong "generally" diamond shape (Fig. 3). The cage includes a flat base planer (15), to facilitate attachment to a flat surface, with an enclosed aperture (14) and first and second straps

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(18 and 19) extending from the base to wrap around ends of the nut. The strength limitations applied to the cage are dependent upon the intended use of which the device of Karp would be capable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karp as applied to claim 1 above, and further in view of Norkus (US 6,146,071). Norkus discloses a cage nut including tabs (37) bent away from the base to prevent paint welding (column 4, lines 8-16). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the cage of Karp with tabs as disclosed in Norkus also to prevent paint welding. The prevention of paint welding would be advantageous in Karp so that device could be used in an environment which is to be painted such as automotive without sacrificing the floating of the nut.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over modified Karp as applied to claim 1 above, and further in view of Teramae (US 4,074,011). Teramae discloses a nut coated with TEFLON. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to coat the nut of modified

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Karp with TEFLON in order to improve its corrosion resistance and its ability to slide within the cage. This would improve the durability of the nut in certain environments such as, again, the automotive environment.

Response to Remarks

Applicant's argument that claims 8-15 read on the elected species has been considered and addressed above under the heading "*Election/Restriction*". No further comment is believed necessary.

Applicant argues that the 35 USC § 102(b) rejection over Karp is improper since Karp does not disclose all the features of the claims as required under section 102. Specifically, applicant argues does not meet the limitation of "the flat base being generally planer, thereby facilitating attachment of the cage structure to a corresponding flat surface" because Karp includes the protruding insert portion 12. In response, the examiner disagrees because the insert portion does not preclude Karp from reading on the claims. As recognized by applicant, Karp discloses a flat base at 15 and the claims do include any language which would prohibit the flat base from having the insert portion. Indeed, the flat base would also be "generally planer" and certainly would "facilitate" attachment to another flat surface. Furthermore, even if the claims were drafted to require the flat surface to be devoid of any protrusion, other prior art references such as Peterson, Bedford and Howe teach such a feature.

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Applicant argues Karp and Norkus are not properly combinable under 35 USC § 103(a) because nut of Karp would be inoperable in the channel of Norkus. In response, without agreeing, the examiner will not dispute the operability of nut of Karp in the channel of Norkus because the combination does not propose putting the nut of Karp into the channel of Norkus. Norkus is simply relied upon for its teaching of the tabs to prevent paint welding. The tabs would be incorporated into the cage already disclosed in Karp for the same purpose of preventing paint welding and the problems associated therewith.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

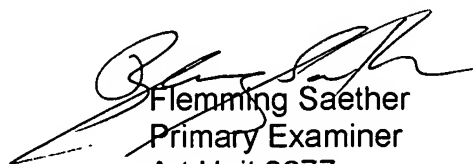
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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